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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,094	12/13/2001	Thomas E. Coverstone	8086.004.NPUS00	9964
68769	7590	01/09/2009	EXAMINER	
HOUSTON OFFICE OF NOVAK DRUCE AND QUIGG LLP 1000 LOUISIANA STREET FIFTY-THIRD FLOOR HOUSTON, TX 77002			D AGOSTA, STEPHEN M	
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
01/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/020,094	<b>Applicant(s)</b> COVERSTONE, THOMAS E.
	<b>Examiner</b> Stephen M. D'Agosta	<b>Art Unit</b> 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 24 October 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 18-21 and 48-87 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 18-21 and 48-87 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1668)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121 since the claims can be grouped into separate/distinct inventions:

- I. **Claim 18** (and dependents), drawn to an invention that teaches advertisements being sent to a user based on their location.
- II. **Claim 49** (and dependents) drawn to an invention that only determines location of a user.
- III. **Claim 59, 63 and 81** (and dependents) drawn to an invention that teaches location determination of a first user in relation to a second user.
- IV. **Claim 68, 75, 85 and 87** (and dependents) drawn to an invention that teaches advertisements being sent to a user based on previous purchases and their location.
- V. **Claim 76** (and dependents) drawn to an invention that teaches advertisements being sent to a user based on their location determination and previously specified user preferences.

While the claims have a common theme with "location determination", they all have differing uses/applications and thus a large burden is placed on the examiner to find each nuance/variant as described. This requires additional searching and additional art, eg. there is no certainty that a piece of art that teaches user location (eg. as per claim 49) will contemplate sending advertisements, or previous purchases or where another/second user is located, or user interest in receiving advertisements, etc..

**Please elect ONE Group from the listing above and cancel all other claims.**  
These cancelled claims can be made part of other individual filings based on their merits.

***Response to Amendment***

1. The examiner apologizes for the “quick” abandonment sent after the BPAI. It was unintentional.
  
2. The examiner notes that claims 68 and 75 do not conform to the USPTO’s format for computer readable medium claims (eg. USC 112 second issues). They should explicitly state that there is a computer program embodied/stored on a computer readable medium and that the program performs the steps outlined in the body of the claim. The applicant should correct these claims if they are elected and/or in any subsequent Continuation/Divisional.
  
3. The examiner notes that claims 68 and 75 may have USC 112 first issues relating to empirical support not being found/contained in the specification to support the computer readable medium claims. The applicant should point out where explicit support is found if these claims are elected.
  
4. The examiner notes that the **title of this application may need to be changed** based on what claims are ultimately elected. The current title, “SYSTEM AND METHOD FOR WIRELESS TELECOMMUNICATIONS NETWORK”, is too generic and should include at least the concept of location determination. Thereafter it depends on which group is elected and the title should include further information (eg. advertisements, location of another user, etc).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen M. D'Agosta/  
Primary Examiner, Art Unit 2617